

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Debbie L. Simpson,)	C/A 3:05-1500- CMC-BM
)	
Plaintiff,)	
)	
v.)	OPINION AND ORDER
)	
United Parcel Service Company,)	
)	
Defendant.)	
)	

Plaintiff Simpson filed this action against her employer, Defendant United Parcel Service Company, claiming a violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e. Defendant filed a motion to dismiss asserting that this action is barred by the doctrine of *res judicata*. Plaintiff responded by filing a motion to amend and/or correct her complaint, which was denied. Plaintiff, however was granted leave to refile her motion and she filed a second motion to amend and/or correct her complaint with a proposed amended complaint on July 19, 2005. Plaintiff also filed a memorandum in opposition to Defendant's motion to dismiss on July 18, 2005, and Defendant filed a reply on July 28, 2005. Defendant also filed a response to Plaintiff's motion to amend and/or correct her complaint on August 8, 2005.¹

In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge Bristow Marchant.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may

¹A motion to withdraw as counsel was filed by Plaintiff's attorney on August 26, 2005, and the court granted the motion. Plaintiff Simpson proceeded *pro se*.

accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

Based on his review of the record, the Magistrate Judge has recommended that Plaintiff's motion to be allowed to amend her complaint be **denied**, that Defendant's motion to dismiss be **granted**, and that this case be **dismissed**, with prejudice, on the grounds of *res judicata* claim preclusion. The court advised the parties of their right to file objections to the Report and Recommendation and the serious consequences of a failure to do so. Plaintiff has filed objections.

Based on a *de novo* review of the record, the complaint, the motions and responses, the applicable law, the Report and Recommendation of the Magistrate Judge, and the objections, the court finds that the Report and Recommendation of the Magistrate Judge has correctly concluded the Plaintiff's claims are barred by *res judicata*. The Report and Recommendation, therefore, is adopted and incorporated by reference.

IT IS HEREBY ORDERED that Plaintiff's motion to be allowed to amend her complaint is **DENIED**, and it is

FURTHER ORDERED that Defendant's motion to dismiss is **GRANTED** and this case is *dismissed, with prejudice*, on the grounds of *res judicata* claim preclusion.

IT IS SO ORDERED.

Columbia, South Carolina
November 21, 2005

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE